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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,130	03/05/2002	Robert W. Davignon II	RWD-01-01	3586

7590 08/07/2003

John A. Haug  
P.O. Box 386  
West Harwich, MA 02671

[REDACTED] EXAMINER

FRECH, KARL D

ART UNIT	PAPER NUMBER
	2876

DATE MAILED: 08/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/090,130	DAVIGNON, ROBERT W.
	Examiner Karl D Frech	Art Unit 2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_ .

2a) This action is **FINAL**.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1-3, 10, 11, 15 and 16 is/are rejected.

7) Claim(s) 4-9 and 12-14 is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 March 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .	6) <input type="checkbox"/> Other: _____

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,3,10,11,15,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz et al 5,730,658. Kurtz discloses a generally circular top disk 11 with a window circular window 19 (circular encompasses arcuate). There is also disclosed a rotating disk 31 with "stroke" indicating indicia thereon, and a hole centrally located on the disk. As seen in figure 3, the circumference of the rotating disk 31 is slightly less than that of the top disk 11. Kurtz does not disclose the specific pin extending downward from the bottom surface of the top disk 11. However, Kurtz does specifically disclose a lug 21 (pin) which passes through the central hole of the rotating disk 31 and abuts the bottom surface of the top disk 11 allowing for relative circular motion between the top disk 11 and the rotating disk 31. It would have been obvious to a person of ordinary skill in the art at the time of the invention to affix this lug 21 to the bottom surface of the top disk 11 in order to avoid any relative "slippage" of the rotating disk 31, therefore ensuring proper axial alignment. Kurtz' second disk inherently has a ground traction surface configuration as there do not exist any frictionless surfaces.

Claims 4-9,12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or fairly suggest, in combination with all the other limitations of the independent claim and any intervening claims; regarding claim 4-7, the specific ground traction surface as claimed; regarding claims 8-9,13-14, the annular recesses on the bottom and top surfaces of the first and second disks respectively; and regarding claim 12, the specific taper to the outer periphery of the disk.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee 3,363,836, Pelosi 3,106,030, Culver 2,485,191, Sadler 3,627,200, Hoyt et al 5,419,551, Doucett Perry 6,394,916, Colangelo 5,769,740, Bradstock 6,569,040, Smith 4,137,448 and Rogerson 5,481,093 all disclose concentric disk golf calculators.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D Frech whose telephone number is (703) 305 3491. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (703) 308 4075. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308 7722 for regular communications and (703) 308 7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.

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Karl D Frech  
Primary Examiner  
Art Unit 2876

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July 27, 2003